

**Oct 7, 2022**

ANGELA E. NOBLE  
CLERK U.S. DIST. CT.  
S.D. OF FLA. - MIAMI

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
**22-20487-CR-BLOOM/OTAZO-REYES**

Case No. \_\_\_\_\_

18 U.S.C. § 1349

18 U.S.C. § 1343

18.U.S.C. § 982

**UNITED STATES OF AMERICA**

**vs.**

**ERICH JAVIER ALFONSO BARATA,**

**Defendant.**

\_\_\_\_\_/

**INFORMATION**

The United States Attorney charges that:

**GENERAL ALLEGATIONS**

At all times relevant to this Information:

***The Small Business Administration***

1. The United States Small Business Administration (“SBA”) was an executive branch agency of the United States government that provided support to entrepreneurs and small businesses. The mission of the SBA was to maintain and strengthen the nation’s economy by enabling the establishment and viability of small businesses and by assisting in the economic recovery of communities after disasters.

2. As part of this effort, the SBA enabled and provided for loans through banks, credit unions, and other lenders. These loans had government-backed guarantees.

***The Paycheck Protection Program***

3. The Coronavirus Aid, Relief, and Economic Security (“CARES”) Act was a federal law enacted in or around March 2020 and designed to provide emergency financial assistance to the millions of Americans who were suffering from the economic effects caused by the COVID-19 pandemic. One source of relief provided by the CARES Act was the authorization of forgivable loans to small businesses for job retention and certain other expenses, through a program referred to as the Paycheck Protection Program (“PPP”).

4. In order to obtain a PPP loan, a qualifying business submitted a PPP loan application, which was signed by an authorized representative of the business. The PPP loan application required the business (through its authorized representative) to acknowledge the program rules and make certain affirmative certifications in order to be eligible to obtain the PPP loan. In the PPP loan application (SBA Form 2483), the small business (through its authorized representative) was required to provide, among other things, its: (a) average monthly payroll expenses; and (b) number of employees. These figures were used to calculate the amount of money the small business was eligible to receive under the PPP. In addition, businesses applying for a PPP loan were required to provide documentation confirming their payroll expenses.

5. A PPP loan application was processed by a participating lender. If a PPP loan application was approved, the participating lender funded the PPP loan using its own monies. While it was the participating lender that issued the PPP loan, the loan was 100% guaranteed by the SBA. Data from the application, including information about the borrower, the total amount of the loan, and the listed number of employees, was transmitted by the lender to the SBA in the course of processing the loan.

6. PPP loan proceeds were required to be used by the business on certain permissible expenses—payroll costs, interest on mortgages, rent, and utilities. The PPP allowed the interest and principal on the PPP loan to be entirely forgiven if the business spent the loan proceeds on these expense items within a designated period of time and used a defined portion of the PPP loan proceeds on payroll expenses.

**The Defendant, Related Entities, and Conspirator**

7. Defendant **ERICH JAVIER ALFONSO BARATA** was a resident of Miami-Dade County, Florida.

8. Black Hookah Inc. (“Black Hookah”) was a Florida corporation with its listed principal address located in Miami-Dade County, Florida. Defendant **ERICH JAVIER ALFONSO BARATA** served as President of Black Hookah.

9. EJ Networking & Security Service Inc. (“EJ Networking”) was a Florida corporation with its listed principal address located in Miami-Dade County, Florida. Defendant **ERICH JAVIER ALFONSO BARATA** served as President of EJ Networking.

10. Daniel Hernandez, a resident of Miami-Dade County, Florida, was an employee of Bank 1 and a conspirator of the defendant.

**Relevant Banks**

11. Bank 1 was a national bank based in New Jersey.

12. Bank 2 was a national bank based in North Carolina.

13. Both Bank 1 and Bank 2 were approved SBA lenders of PPP loans and insured by the Federal Deposit Insurance Corporation (“FDIC”).

**COUNT 1**  
**Conspiracy to Commit Wire Fraud**  
**(18 U.S.C. § 1349)**

1. The General Allegations section of this Information is re-alleged and incorporated by reference as though fully set forth herein.

2. From in or around April 2020, continuing through at least July 2020, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

**ERICH JAVIER ALFONSO BARATA,**

did willfully, that is, with the intent to further the object of the conspiracy, and knowingly combine, conspire, confederate, and agree with Daniel Hernandez and others known and unknown to the United States Attorney to knowingly, and with the intent to defraud, devise, and intend to devise, a scheme and artifice to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, knowing that the pretenses, representations, and promises were false and fraudulent when made, and, for the purpose of executing the scheme and artifice, did knowingly transmit and cause to be transmitted, by means of wire communications in interstate and foreign commerce, certain writings, signs, signals, pictures, and sounds, in violation of Title 18, United States Code, Section 1343.

**PURPOSE OF THE CONSPIRACY**

It was the purpose of the conspiracy for the defendant and his conspirators to unjustly enrich themselves by, among other things: (a) submitting and causing the submission of false and fraudulent applications for loans and grants made available through the SBA to provide relief for the economic effects caused by the COVID-19 pandemic, namely, PPP loans; (b) offering, paying, and receiving kickbacks in return for referring other individuals for the submission of false and fraudulent loan applications; and (c) diverting fraud proceeds for the defendant's and his conspirators' personal use, the use and benefit of others, and to further the conspiracy.

**MANNER AND MEANS OF THE CONSPIRACY**

The manner and means by which the defendant and his conspirators sought to accomplish the object and purpose of the conspiracy included, among others, the following:

3. **ERICH JAVIER ALFONSO BARATA** agreed with Daniel Hernandez to assist in preparing false and fraudulent PPP loan applications on behalf of companies controlled by the defendant and other conspirators to be submitted at Bank 1 and Bank 2.

4. **ERICH JAVIER ALFONSO BARATA** and his conspirators submitted and caused to be submitted via interstate wire communications false and fraudulent PPP loan applications on behalf of Florida-based entities that they controlled, including Black Hookah and EJ Networking, using the companies' Florida addresses and Employer Identification Numbers.

5. In furtherance of the conspiracy, **ERICH JAVIER ALFONSO BARATA** and his conspirators submitted and caused the submission of false and fraudulent information and documentation in support of the PPP loan applications, including falsified copies of Internal Revenue Service ("IRS") forms, bank statements, and payroll tax forms, among other things, and falsely and fraudulently represented each company's number of employees, amount of monthly payroll, and amount of gross revenue.

6. As a result of the false and fraudulent PPP loan applications submitted as part of this scheme, Bank 1 and Bank 2 approved PPP loans to entities belonging to the defendant and his conspirators and disbursed over \$6,500,000 in loan proceeds into bank accounts controlled by the defendant and his conspirators, via interstate wire transmission.

7. Co-conspirators paid **ERICH JAVIER ALFONSO BARATA**, Daniel Hernandez, and others a kickback based on each false and fraudulent loan funded.

8. The defendant and his conspirators used the proceeds from the fraudulent scheme to enrich themselves and others, and to further the conspiracy.

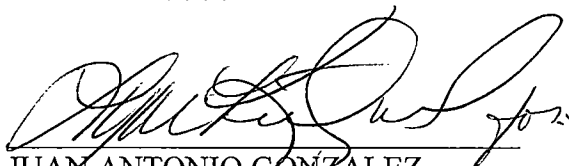
All in violation of Title 18, United States Code, Section 1349.

**FORFEITURE ALLEGATIONS**

1. The allegations contained in this Information are hereby re-alleged and by this reference fully incorporated herein for the purpose of alleging forfeiture to the United States of certain property in which the defendant, **ERICH JAVIER ALFONSO BARATA**, has an interest.

2. Upon conviction of a violation of Title 18, United States Code, Section 1349, a conspiracy to violate Title 18, United States Code, Section 1343, as alleged in this Information, the defendant shall forfeit to the United States any property constituting, or derived from, proceeds obtained directly or indirectly, as the result of such offense, pursuant to Title 18, United States Code Section 982(a)(2)(B).

All pursuant to Title 18, United States Code, Section 982(a)(1), and the procedures set forth at Title 21, United States Code, Section 853, as incorporated by Title 18, United States Code, Section 982(b)(1).



JUAN ANTONIO GONZALEZ  
UNITED STATES ATTORNEY



ELI S. RUBIN  
ASSISTANT UNITED STATES ATTORNEY

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

UNITED STATES OF AMERICA

CASE NO.:

v.

Erich Javier Alfonso Barata,

**CERTIFICATE OF TRIAL ATTORNEY\*****Superseding Case Information:**

\_\_\_\_\_/ Defendant.

**Court Division** (select one)

- ☒ Miami      ☐ Key West      ☐ FTP  
☐ FTL      ☐ WPB

New Defendant(s) (Yes or No)

Number of New Defendants

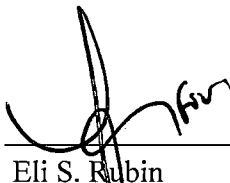
Total number of New Counts

I do hereby certify that:

1. I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.
2. I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. §3161.
3. Interpreter: (Yes or No) Yes  
List language and/or dialect: Spanish
4. This case will take 0 days for the parties to try.
5. Please check appropriate category and type of offense listed below:  

(Check only one)	(Check only one)
I <input checked="" type="checkbox"/> 0 to 5 days	<input type="checkbox"/> Petty
II <input type="checkbox"/> 6 to 10 days	<input type="checkbox"/> Minor
III <input type="checkbox"/> 11 to 20 days	<input type="checkbox"/> Misdemeanor
IV <input type="checkbox"/> 21 to 60 days	<input checked="" type="checkbox"/> Felony
V <input type="checkbox"/> 61 days and over	
6. Has this case been previously filed in this District Court? (Yes or No) No  
If yes, Judge \_\_\_\_\_ Case No. \_\_\_\_\_
7. Has a complaint been filed in this matter? (Yes or No) Yes  
If yes, Magistrate Case No. 22-3095-MJ-JG
8. Does this case relate to a previously filed matter in this District Court? (Yes or No) Yes  
If yes, Judge Martinez Case No. 22-20194-CR-JEM; 22-20420-CR-JEM
9. Defendant(s) in federal custody as of \_\_\_\_\_
10. Defendant(s) in state custody as of \_\_\_\_\_
11. Rule 20 from the \_\_\_\_\_ District of \_\_\_\_\_
12. Is this a potential death penalty case? (Yes or No) No
13. Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to August 8, 2014 (Mag. Judge Shaniek Maynard? (Yes or No) No
14. Does this case originate from a matter pending in the Central Region of the U.S. Attorney's Office prior to October 3, 2019 (Mag. Judge Jared Strauss? (Yes or No) No

By: \_\_\_\_\_



Eli S. Rubin

Assistant United States Attorney

Court ID No. A5502535

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: Erich Javier Alfonso Barata

Case No: \_\_\_\_\_

Count #: 1

Conspiracy to Commit Wire Fraud

Title 18, United States Code, Section 1349

**\* Max. Term of Imprisonment: 20 Years' Imprisonment**

**\* Mandatory Min. Term of Imprisonment (if applicable): N/A**

**\* Max. Supervised Release: 3 Years' Supervised Release**

**\* Max. Fine: \$250,000.00**

**\*Refers only to possible term of incarceration, supervised release and fines. It does not include restitution, special assessments, parole terms, or forfeitures that may be applicable.**



AO 455 (Rev. 01/09) Waiver of an Indictment

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UNITED STATES DISTRICT COURT

for the

Southern District of Florida

United States of America

v.

Erich Javier Alfonso Barata,

*Defendant*

)  
)  
)  
)  
)

Case No.

**WAIVER OF AN INDICTMENT**

I understand that I have been accused of one or more offenses punishable by imprisonment for more than one year. I was advised in open court of my rights and the nature of the proposed charges against me.

After receiving this advice, I waive my right to prosecution by indictment and consent to prosecution by information.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Defendant's signature*

\_\_\_\_\_  
*Signature of defendant's attorney*

ALEJANDRO SOLA, ESQ.

\_\_\_\_\_  
*Printed name of defendant's attorney*

\_\_\_\_\_  
*Judge's signature*

\_\_\_\_\_  
*Judge's printed name and title*